

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ATIYA HARRIS; RAFAEL SEVERINO; RAFAEL
SEVERINO, JR., an infant under the age of eighteen
(18) years of age by his father and natural guardian,
RAFAEL SEVERINO; and RACHELLE SEVERINO,
An infant under the age of eighteen (18) years of age
By his father and natural guardian, RAFAEL
SEVERINO,

Plaintiffs,

-against-

STACEY D. WARE,

Defendant.

Rule 56.1
Statement

INDEX: 04 CV 1120

GLEESON, J.

POHORELSKY, M.

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Pursuant to the Local Rules of the United States District Court for the Southern and
Eastern Districts of New York, Local Civil Rule 56.1, defendant STACEY D. WARE, appearing
herein by McDONALD, CARROLL, COHEN & RAYHILL, alleges the following material facts
as to which the moving party herein contends there is no genuine issue to be tried:

1. The accident forming the basis of plaintiffs' lawsuit occurred on March 24, 2001,
in the State of Delaware. See State of Delaware Uniform Traffic Collision
Report, annexed hereto.
2. The accident forming the basis of plaintiff's lawsuit was investigated by Cpl.
Douglas Rentz, a resident of the State of Delaware. See State of Delaware
Uniform Traffic Collision Report, annexed hereto.
3. Defendant Stacey Ware is a resident of the State of Delaware. See State of
Delaware Uniform Traffic Collision Report, annexed hereto.
4. The State of Delaware possesses the most significant relationship to this action.

DATED: New York, NY
October 20, 2004

Respectfully submitted,

McDONALD, CARROLL, COHEN & RAYHILL
Attorneys for Defendant
STACEY D. WARE
One Whitehall Street
New York, NY 10004-2109
Phone: (212) 248-9100
Fax Nos: (212) 510-9257, 510-9258,
FILE NO. 04NY00809

By: _____
ROBERT F. McCARTHY (RM-9676)

TO: SANFORD L. PIROTIN, P.C.,
Attorneys for Plaintiff
323 Madison Street
Westbury, NY 11590
(516) 333-2553

<input type="checkbox"/> REPORTABLE PROPERTY DAMAGE		<input type="checkbox"/> NON-REF. TABLE		STATE OF DELAWARE		Document 23-11		Filed 03/09/2005		Page 3 of 3	
<input type="checkbox"/> PERSONAL INJURY		<input type="checkbox"/> HAZ/MAT.		UNIFORM TRAFFIC							
<input type="checkbox"/> FATALITY		<input type="checkbox"/> COMM. VEH.		COLLISION REPORT							
3. MON. - DATE - YEAR		4. DAY		5. TIME OCCURRED		6. NOTIFIED		7. ARRIVED		8. GRID NO.	
03/24/01		SA		1640						1	
10. NUMBER & NAME OF STREET OR HIGHWAY - CTY. RTE. NO. - INTERSECTING WITH STREET OR ROAD - CTY. RTE. NO.		11. INTERSECTING WITH STREET OR ROAD - CTY. RTE. NO.		12. LIGHT CONDITION		13. WEATHER CONDITION		14. SURFACE CONDITION		15. TRAFFIC CONTROL	
PRIVATE PROPERTY - CHRISTIANA MALL RD		STATE ROUTE 1 CR 67									
16. PRIM. CONTRIB. CIRCUM.		8. SPEED TOO FAST		11. DISREGARD TRAFFIC SIGNAL		14. FOLLOWING TOO CLOSE		17. MECH. DEFECT		18. FUNCT. PROPER	
		9. FAIL TO YIELD ROW		12. DROVE LEFT OF CENTER		15. MADE IMPROPER TURN		16. DRIVING UNDER INFLUENCE			
17. COLLISION INVOLVED		18. ON RDWY.		19. EMERG. RESPON.		20. MILES		21. CITY OR TOWN		22. CODE	
24. NAME NO. 1		24. NAME NO. 2		25. STREET ADDRESS		25. STREET ADDRESS		26. CITY		27. STATE	
HARRIS		WARE		590 FULTON ST APT 3C		12 CIRCLE DRIVE EAST		MILTON		DE	
28. CITY		28. ZIP		29. PHONE		29. PHONE		30. DRIVERS LICENSE NO.		31. STATE	
HEMPSTEAD		NY		516-539-7465		684-3565		972582		DE	
30. DRIVERS LICENSE NO.		31. STATE		32. DOB		33. AGE		34. SEX		35. TEST NUMBER	
344528339		NY		02/10/73		M		M		0507/73	
36. SOBRIETY		36. TESTED		37. TYPE		37. RESULT D.		38. TEST NUMBER		38. TESTED	
38. VEHICLE YR.		38. VEHICLE MAKE		40. MODEL		41. BODY STYLE		38. VEHICLE YR.		38. VEHICLE MAKE	
1997		NISSAN		SENTRA				1998		FORD	
42. REGISTRATION NO.		43. STATE		44. COLOR		45. DAMAGE		42. REGISTRATION NO.		43. STATE	
DG 840 Y		NY		SILVER		\$ 300 -		PC 193828		DE	
46. TRAILERS		46. TRAILERS		46. TRAILERS		46. TRAILERS		46. TRAILERS		46. TRAILERS	
0 1 2 3		0 1 2 3		0 1 2 3		0 1 2 3		0 1 2 3		0 1 2 3	
47. VEHICLE/TRACTOR OWNER: LAST		47. VEHICLE/TRACTOR OWNER: LAST		47. VEHICLE/TRACTOR OWNER: LAST		47. VEHICLE/TRACTOR OWNER: LAST		47. VEHICLE/TRACTOR OWNER: LAST		47. VEHICLE/TRACTOR OWNER: LAST	
SAA		SAA		SAA		SAA		SAA		SAA	
48. STREET		48. STREET		48. STREET		48. STREET		48. STREET		48. STREET	
SAA		SAA		SAA		SAA		SAA		SAA	
49. INSURANCE COMPANY		49. INSURANCE COMPANY		49. INSURANCE COMPANY		49. INSURANCE COMPANY		49. INSURANCE COMPANY		49. INSURANCE COMPANY	
CLARENDON		DAIRYLAND AUTO INS DE		DAIRYLAND AUTO INS DE		DAIRYLAND AUTO INS DE		DAIRYLAND AUTO INS DE		DAIRYLAND AUTO INS DE	
50. CHARGE/SECTION NO.		50. CHARGE/SECTION NO.		50. CHARGE/SECTION NO.		50. CHARGE/SECTION NO.		50. CHARGE/SECTION NO.		50. CHARGE/SECTION NO.	
52. NO. 1 TOWED BY:		52. NO. 2 TOWED BY:		52. NO. 3 TOWED BY:		52. NO. 4 TOWED BY:		52. NO. 5 TOWED BY:		52. NO. 6 TOWED BY:	
53. TO:		53. TO:		53. TO:		53. TO:		53. TO:		53. TO:	
54. CODE		54. CODE		54. CODE		54. CODE		54. CODE		54. CODE	
55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)		55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)		55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)		55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)		55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)		55. WITNESS INFORMATION: (NAME, ADDRESS, PHONE NO., LOCATION)	
NO WITNESS INFORMATION AVAILABLE		NO WITNESS INFORMATION AVAILABLE		NO WITNESS INFORMATION AVAILABLE		NO WITNESS INFORMATION AVAILABLE		NO WITNESS INFORMATION AVAILABLE		NO WITNESS INFORMATION AVAILABLE	
V1 WAS TRAVELING N/B ON CHRISTIANA MALL AD. V2 WAS TRAVELING DIRECTLY BEHIND V1. V1 STOPPED TO MAKE A LH TURN. OP#2 WAS UNABLE TO STOP IN TIME. THE FRONT LEFT OF V2 STRUCK THE RIGHT REAR OF V1 FOR POI #1 APPROX 1,000' E/O STATE ROUTE 1. POI #1 WAS FRP OF BOTH VEHICLES. OP#1 STATED SHE HAD HER TURN SIGNAL ON BEFORE SHE STOPPED TO MAKE THE TURN. OP#2 STATED THAT V1 SUDDENLY STOPPED AND THAT THERE WAS NO TURN SIGNAL BY V1. OP#2 STATED SHE SWERVED TO THE RIGHT BUT WAS UNABLE TO AVOID A COLLISION.		V1 WAS TRAVELING N/B ON CHRISTIANA MALL AD. V2 WAS TRAVELING DIRECTLY BEHIND V1. V1 STOPPED TO MAKE A LH TURN. OP#2 WAS UNABLE TO STOP IN TIME. THE FRONT LEFT OF V2 STRUCK THE RIGHT REAR OF V1 FOR POI #1 APPROX 1,000' E/O STATE ROUTE 1. POI #1 WAS FRP OF BOTH VEHICLES. OP#1 STATED SHE HAD HER TURN SIGNAL ON BEFORE SHE STOPPED TO MAKE THE TURN. OP#2 STATED THAT V1 SUDDENLY STOPPED AND THAT THERE WAS NO TURN SIGNAL BY V1. OP#2 STATED SHE SWERVED TO THE RIGHT BUT WAS UNABLE TO AVOID A COLLISION.		V1 WAS TRAVELING N/B ON CHRISTIANA MALL AD. V2 WAS TRAVELING DIRECTLY BEHIND V1. V1 STOPPED TO MAKE A LH TURN. OP#2 WAS UNABLE TO STOP IN TIME. THE FRONT LEFT OF V2 STRUCK THE RIGHT REAR OF V1 FOR POI #1 APPROX 1,000' E/O STATE ROUTE 1. POI #1 WAS FRP OF BOTH VEHICLES. OP#1 STATED SHE HAD HER TURN SIGNAL ON BEFORE SHE STOPPED TO MAKE THE TURN. OP#2 STATED THAT V1 SUDDENLY STOPPED AND THAT THERE WAS NO TURN SIGNAL BY V1. OP#2 STATED SHE SWERVED TO THE RIGHT BUT WAS UNABLE TO AVOID A COLLISION.		V1 WAS TRAVELING N/B ON CHRISTIANA MALL AD. V2 WAS TRAVELING DIRECTLY BEHIND V1. V1 STOPPED TO MAKE A LH TURN. OP#2 WAS UNABLE TO STOP IN TIME. THE FRONT LEFT OF V2 STRUCK THE RIGHT REAR OF V1 FOR POI #1 APPROX 1,000' E/O STATE ROUTE 1. POI #1 WAS FRP OF BOTH VEHICLES. OP#1 STATED SHE HAD HER TURN SIGNAL ON BEFORE SHE STOPPED TO MAKE THE TURN. OP#2 STATED THAT V1 SUDDENLY STOPPED AND THAT THERE WAS NO TURN SIGNAL BY V1. OP#2 STATED SHE SWERVED TO THE RIGHT BUT WAS UNABLE TO AVOID A COLLISION.		V1 WAS TRAVELING N/B ON CHRISTIANA MALL AD. V2 WAS TRAVELING DIRECTLY BEHIND V1. V1 STOPPED TO MAKE A LH TURN			